



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

MEMORANDUM FOR: Lee County, Florida for a Disaster Occurring in 2022
(Allocation announced in the May 2023 Notice); Community
Planning and Development Field Office Directors, Deputy
Directors, Regional Directors, and Program Managers.

FROM: Bryan W. Horn, Acting Principal Deputy Assistant Secretary for
Community Planning and Development, D

SUBJECT: Low- and Moderate-Income (LMI) Benefit for Infrastructure
Projects (Lee County Only)

APPLICABILITY DATE: December 8, 2025

PURPOSE

This memorandum provides a waiver and alternative requirement, consistent with the Universal Notice, allowing Lee County to apply proportional infrastructure costs toward meeting the LMI overall benefit threshold in areas with less than 51 percent of LMI residents. This memorandum applies to the following CDBG-DR grant allocated to Lee County:

- 1) CDBG-DR allocation for a disaster occurring in 2022 funded by Pub. L. 117-328 (“the Appropriations Act”) and subject to the requirements published in the *Federal Register* at 88 FR 32046 on May 18, 2023, and Memorandum 25-04 on May 7, 2025 (the “Prior Notices”).

WAIVER AND ALTERNATIVE REQUIREMENT AUTHORITY

With certain exceptions, the Appropriations Act cited above authorizes the Secretary to waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary, or use by the recipient, of grant funds. In particular, the Appropriations Act waiver and alternative requirement authority does not extend to requirements related to fair housing, nondiscrimination, labor standards, and the environment. The Department of Housing and Urban Development (HUD) (the “Department”) may also exercise regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.

The Appropriations Act requires the Secretary to publish any waiver or alternative requirement either via the *Federal Register* or the Department’s website no later than five days before the effective date of such waiver or alternative requirement. HUD is exercising its authority to publish this memorandum on the Department’s website: [CDBG-DR Laws, Regulations, and Federal Register Notices](#).

The waiver and alternative requirement authorized in this memorandum is based upon a determination by the Secretary that good cause exists, and the waiver and alternative requirement is not inconsistent with the overall purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA). The basis for the waiver and alternative requirement is summarized below.

Waiver and Alternative Requirement for Calculating LMI Benefit for Infrastructure Projects for Lee County’s 2022 CDBG-DR Grant (Lee County, Florida only)

Background

The Department received a request and justification of good cause from Lee County to waive the requirements at 24 CFR 570.200(a)(3), as modified by the Prior Notices, to the extent necessary to allow for the proportional costs of infrastructure projects to count towards meeting the overall benefit requirement of primarily benefiting LMI persons in service areas that are less than 51 percent LMI. This waiver request aligns with requirements included in the notice titled *Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice*, published on January 8, 2025, at 90 FR 1754, as amended by Memorandums 25-02¹ and 25-03² (“The Universal Notice”). The requested waiver and alternative requirement would allow Lee County to invest in large-scale infrastructure projects and report proportional LMI benefit.

The Prior Notices require projects that use the low- and moderate-income area benefit (LMA) national objective to adhere to the national objective criteria at 24 CFR 570.208(a)(1), in which the benefits of an LMA activity must be available to all the residents in a particular area, and at least 51 percent of those residents must be LMI. However, large-scale infrastructure projects with broad service areas present a challenge for meeting the LMA national objective criteria because the broad service areas may result in the LMI population being less than 51 percent. As such, several infrastructure projects funded by Lee County through the allocation under the Prior Notices require the use of the urgent need national objective where the service area is less than 51 percent LMI. In those cases, the County cannot count any of the funds expended for such projects towards its overall benefit requirement – even when LMI persons are located in the service area.

The Prior Notices also retain an overall benefit requirement. Specifically, for Lee County’s CDBG-DR allocation under these notices, it must comply with the overall benefit requirements in the HCDA and 24 CFR 570.200(a)(3), and 70 percent of funds must be used for

¹ Memorandum 25-02, “Revisions made to the Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice published in the Federal Register (90 FR 1754) and Clarifications to the Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG–DR Consolidated Waivers and Alternative Requirements Notice Published in the Federal Register (90 FR 4759),” published on March 19, 2025. Found at <https://www.hud.gov/sites/dfiles/CPD/documents/CPDUniversalnotice.pdf>

² Memorandum 25-03, “Revisions made to the Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice published in the Federal Register (90 FR 1754),” published on March 31, 2025. Found at <https://www.hud.gov/sites/default/files/CPD/documents/CDBG-DR/3-31-2025UniversalNoticeChangesMemo.pdf>

activities that benefit LMI persons. Since grantees' infrastructure needs and investments may represent a significant portion of their total CDBG-DR allocation, grantees may not be able to meet the overall benefit requirement if their infrastructure activities can only meet the urgent need national objective.

Lee County has requested this waiver and alternative requirement based on the following challenges to meet its critical infrastructure needs. In Lee County, Hurricane Ian caused an estimated \$3 billion in damage to public facilities and infrastructure, including damage to energy systems, roadways, bridges, traffic controls, water and wastewater treatment systems, cell towers, and voice and data services. Current FEMA Public Assistance requests total approximately \$555 million, leaving \$2.5 billion in damage to infrastructure without a significant funding source available to address these needs. To determine where infrastructure improvements are most needed, the County completed an analysis of the location of storm surge activity and found that areas where most LMI populations reside do not neatly align with the areas that had the most significant impacts from Hurricane Ian.

Lee County's planned infrastructure activities will benefit mixed-income populations, but without the flexibility to report proportional LMI benefit, the County would face constraints on advancing critical recovery and resilience projects that do not meet the LMA national objective and may risk noncompliance with the overall benefit requirement. Additionally, the County has committed \$500 million to activities that exclusively meet an LMI national objective, and an additional \$50 million is expected to meet the LMA national objective through the County's infrastructure projects and Hazard Mitigation Grant Program Match activities. This allocation of resources will ensure that approximately 50 percent of the County's CDBG-DR grant will be spent on activities that primarily benefit LMI persons *before* accounting for the proportional LMI benefit provided under the requested waiver and alternative requirement.

HUD's Determination

HUD understands that CDBG-DR funds represent a significant opportunity for grantees to implement strategic, high-impact infrastructure projects that support recovery, mitigate disaster risks, and reduce future losses. After reviewing Lee County's request and based on the good cause provided herein, the Department is waiving the requirements at 24 CFR 570.200(a)(3) only to the extent necessary to add the following alternative requirement: Lee County may count CDBG-DR funds expended for infrastructure activities toward benefiting LMI persons and meeting the overall benefit requirement by multiplying the total cost (including both CDBG-DR and non-CDBG-DR funds) of the activity by the percentage of LMI persons in the service area, provided that the amount counted does not exceed the amount of CDBG-DR funds invested. This flexibility will allow the County to invest in large-scale infrastructure projects with broad service areas and report proportional LMI benefit in accordance with the 70 percent overall benefit requirement for its CDBG-DR grant announced under the Prior Notices.

FOR FURTHER INFORMATION CONTACT

Gerilee W. Bennett, Acting Director, Office of Disaster Recovery, Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone

number 202–708–3587. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. Email inquiries may be sent to [Disaster Recovery@hud.gov](mailto:Disaster_Recovery@hud.gov).